

**NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)**

Application No.
10/822,276

Applicant(s)
WHITE, JAMES ALFRED

Art Unit
3700

Date Mailed:
03/11/2010

The request for continued examination (RCE) under 37 CFR 1.114 filed on 30 June, 2009 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☒ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on 01 July, 2009. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☐ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after **June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

/PALESTINE JENKINS/, Technology Center 3700

Telephone Number: (571)272-1021



**Reply to Notice of Improper Request for Continued
Examination (RCE) mail dated 03/11/2010**

Application No. 10/822/276

File Date: 04/12/2004

First Named Inventor: James Alfred White

Art Unit: 3724

**Petition for Revival of Patent Application Abandoned
Unintentionally is requested.**

**Unintentional Abandonment: It was not apparent to me at the
prior submittal of the RCE for the need to file for an extension
of time.**

**This patent application is assigned to Allied Trading and
Marketing Co., Inc. which is a small entity consisting of only 3
partners. All functions of the operation including office,
machining, shipping and patent application are performed by
these partners. In April 2009 the death of one partner
devastated our operation.**

**During the ensuing months it was assumed the patent was
being processed. It was a surprise to receive a Notice of
Improper RCE mailed 03/11/2010 in response to RCE of
06/30/2009.**

**The fee for Petition of \$810 for a timing error becomes a major
expense to a small business entity. Your consideration is
requested of any circumstance or matter which would permit
the refunding of this fee.**

Respectfully: James Alfred White, President

Allied Trading and Marketing Co., Inc.(assignee)